

**Authorized for Public Disclosure.**

**PRESENTATION BY:**  
**MAUREEN M. MARTOWSKA**  
**2 Edgewater Dr.**  
**Lakeville, MA 02347**

**TO: Public Health Committee Hearing re: H.B. 6267**  
**Task Force on DPH Involvement in the Family Court System**  
**Hearing Date: February 20, 2015**

—

Dear Public Health Committee,

I am writing in support of House Bill 6267 in consideration of whether to appoint a Task Force to Study the Dept. of Public Health's Involvement in the Family Court System. Please allow this to serve as my testimony, and you have my permission for public dissemination.

I am a grandmother of a son who has had a case in the CT family court for over 9 years. I hold a J.D. degree, and our family has been involved with both the family court and many behavioral health professionals over these many years that have included the services of psychological evaluators, child therapists, couple therapists, and supervised visitation.

"High-conflict" has been a misnomer assigned to many couples going through divorce who often cannot reach agreement with each other. Others have chosen to call these parties "disgruntled" or the "losers" – but if truth be told, they are ultimately parents desiring access to their children after having it either entirely denied or greatly restricted. Unfortunately, the court system is ill prepared to timely and effectively deliver much needed services to these parents and provide early intervention services at the time when it is most critically needed. By the time the court does so, the parents are often drained financially (not to mention mentally destroyed) by the costs related to their own counsel, GALs, supervised visitation, and own therapy. (See attached flowchart.) These parents instead are labeled with perceived or actual mental illness, as one of my peers who underwent GAL training was present when a judge making a presentation to the class of prospective GALs instructed the class that over 99% of the "high conflict" cases have one or both parents with mental illness. Some feel the misnomer of "high conflict" is meant to dodge any allegations of discrimination and ADA violations.

Notably at this juncture, the best interest of the child will seemingly supersede any constitutional rights of parents. Subsequently, the judge will appoint a GAL and ultimately a behavioral health professional and/or psych evaluation will be ordered. The prolonged nature of these cases and failure of the system to allow for grievances to be addressed on a timely basis coupled with the lack of adequate resources and adequate oversight by DPH further exacerbates the problem. While many judges remain independent, there are concerns by many parents that some judges who participate on the board of directors and are members of the AFCC (Association of Family Conciliation Courts) have developed too cozy a relationship with fellow AFCC members that consist of fellow family law attorneys and behavioral health professionals who also are AFCC members and in some cases have headed up the CT chapter of the AFCC and who derive a direct financial benefit by their appointments on several family cases with no disclosure to parents of this conflict of interest. (See attached informal opinion of Judicial Ethics Committee dated 4/19/13 that indirectly addresses such conflict of interest.) In fact, there is the perception of impropriety and a serious concern that a “club” has been formed by these close alliances for financial enrichment. This situation has created a fear of abuse of process and concern in some circles of racketeering wherein select GALs and behavioral health professionals, in particular those with AFCC affiliation, are used to the exclusion of others and often the parent’s right to contract with other professionals is foreclosed. In 2014, the CT Task Force to Study Legal Disputes Involving the Care and Custody of Children in performance of their duties uncovered via public testimony that of approximately 1,100 certified GALs, only approx. 100 of the same GALs were being appointed and reappointed for “high conflict” cases, Many with AFCC affiliations. There appears to be a similar pattern evolving amongst those behavioral health providers who garner a similar affiliation with the AFCC.

The number of complaints is not the motivating concern with regard to how DPH is handling complaints with regard to behavioral health professionals. Rather, the inherent deficiencies of the process and lack of timely inquiry and follow up to such complaints that are filed is very concerning. In one particular instance, a behavioral health provider was licensed in both CT and MA. In MA, this particular provider was under investigation and provided a “Show Cause” letter from her licensing board in MA as to why her license should not be rescinded. Yet, despite evidence brought to the attention of a CT family court judge which ultimately led to the resignation of this provider on a court matter and despite a complaint submitted to the CT DPH on this provider’s actions in CT, no action has yet been taken by DPH. This provider continues to take on family cases to the detriment of our children.

The current problem many “high conflict” families are experiencing is that when the court orders psychological evaluations (evaluations that could cost from \$3,000-\$20,000) or court ordered child therapy, couple therapy, or reunification therapy, the providers of such services will bill their services as “consulting” rather than therapeutic services. Consulting services are considered “forensic” in nature rather than therapeutic and therefore will not be covered by insurance companies – notably they are also billed at a higher rate. There is a financial incentive for providers to bill the time as “consulting” for it is paid at a higher rate

(private pay) than if it were deemed therapeutic (covered by insurance). Once the court issues an order for litigants to engage in behavioral health services – it is typically considered forensic in nature by many, if not all, practitioners and used by providers to justify escalated fees to the financial detriment of the already financially stretched parent who is expected to bear just one more financial burden among many (see attached flowchart of costs). There is a reason that perhaps some behavioral health professionals feel it is preferable to bill as consultants for the court – because operating under court order they serve at the court's command, and so as an arm of the court are typically afforded some immunity.

Rather, parents are seeking solutions such as the following:

- 1) The ability to contract with a behavioral health professional for services outside of a court order with a licensed professional of their own choosing,
- 2) The ability to have those services deemed eligible for insurance coverage
- 3) Appropriate and timely oversight by the CT DPH that assures the public of its commitment to the integrity of the review process, the integrity of professionals who serve these parents, and timely responses to parents who make these complaints and have a right to expect them to be handled in a respectful and confidential manner

This is NOT meant to be an indictment against the behavioral health community. Many parents in family court recognize the importance of these services and in fact depend upon them. Rather, parents want to know that those few who abuse the system and do not live up to their ethical standards of care have oversight and repercussions so as to protect the families and children. Just as lawyers, judges, and other professionals have a timely and thorough process for oversight, there needs to be better oversight and timely investigations and decisions once complaints on behavioral health professionals have been filed. Perhaps the declining numbers in such complaints with the DPH is more a reflection of the loss of confidence by the public for this department to do its due diligence. Those living up to the standard of care have nothing to fear. The legitimate scrutiny and protection of the public should outweigh any proprietary concerns by individual providers, and honest practitioners should welcome the inquiry. The failure to do so leaves the integrity of the profession in question and subject to further scrutiny and speculation.

Please feel free to contact me should you have any questions.

*Maureen M Martowska*

Maureen M. Martowska  
 2 Edgewater Dr.  
 Lakeville, MA 02347  
[maureen.martowska@gmail.com](mailto:maureen.martowska@gmail.com)  
 508-946-0767